

§ 228.6

(c) The entry into a cooperative agreement with either MMS or BLM will not affect the ability of a State or Indian tribe to choose to enter into such an agreement with the other agency. A State may enter into a delegation agreement (30 U.S.C. 1735) with MMS to perform certain functions without affecting its ability to enter into a cooperative agreement with either MMS or BLM, or both, to cooperate in the performance of those functions which are not delegated in this part.

§ 228.6 Definitions.

For the purposes of this part, terms shall have the same meaning as in 30 U.S.C. 1702. In addition, the following definition shall apply:

Audit means an examination of the financial accounting and lease related records of the lessee and other interest holders, who by lease or contract pay royalties or are obligated to pay royalties, rents, bonuses or other payments on Federal or Indian leases. An examination is to be conducted in accordance with generally accepted audit standards as adopted by the American Institute of Certified Public Accountants. Activities to be examined which are considered to be an audit function include reconciliation of lease accounts under the Royalty Accounting System; records of lease activities related to Federal leases located within the boundaries of the State entering into a cooperative agreement; records of lease activities related to leases located on Indian lands, and the review and resolution of exceptions processed by the Auditing and Financial System and the Production Accounting and Auditing System, the official accounting systems for royalty reporters and payors maintained by the MMS.

§ 228.10 Information collection.

(a) The information collection requirements contained in this part have been approved by OMB under 44 U.S.C. 3501 et seq. and assigned OMB Clearance Number 1010-0087. The information collected will be used to prepare a cooperative agreement with a State or Indian tribe wishing to perform royalty audits. The information should be submitted voluntarily in order to enter

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into a cooperative agreement authorized by 30 U.S.C. 1732.

(b) Public reporting burden is estimated to average 136 hours for the preparation of the original request for consideration and application to enter into a cooperative agreement. Subsequent requests for renewal of the agreement may require about 40 hours for the preparation of an annual budget and work plan, and an estimated 8 hours per quarter for preparation of a reimbursement voucher and an audit progress report. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing burden, to the Information Collection Clearance Officer, Minerals Management Service, 381 Elden Street, Herndon, Virginia 22070; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project 1010-0087, Washington, DC 20503.

[57 FR 41868, Sept. 14, 1992, as amended at 58 FR 64903, Dec. 10, 1993]

Subpart B—Oil and Gas, General [Reserved]

Subpart C—Oil and Gas, Onshore

§ 228.100 Entering into an agreement.

(a) A State or Indian tribe may request the Department to enter into a cooperative agreement by sending a letter from the governor, tribal chairman, or other appropriate official with delegation authority, to the Director of MMS.

(b) The request for an agreement shall be in a format prescribed by MMS and should include at a minimum the following information:

(1) Type of eligible activities to be undertaken.

(2) Proposed term of the agreement.

(3) Evidence that the State or Indian tribe meets, or can meet by the time the agreement is in effect, the standards established by the Secretary for the types of activities to be conducted under the terms of the agreement.

(4) If the State is proposing to undertake activities on Indian lands located within the State, a resolution from the appropriate tribal council indicating

their agreement to delegate to the State responsibilities under the terms of the cooperative agreement for activities to be conducted on tribal or allotted land.

(c) The eligible activities to be conducted under the terms of a cooperative agreement may be funded or unfunded by the Department. See § 228.105 of this subpart for funding of cooperative agreements.

[49 FR 37348, Sept. 21, 1984, as amended at 56 FR 10512, Mar. 13, 1991]

§ 228.101 Terms of agreement.

(a) Agreements entered into under this part shall be valid for a period of 3 years and shall be renewable or additional consecutive 3-year periods upon request of the State or Indian tribe which is a party to the agreement.

(b) An agreement may be terminated at any time by mutual agreement and upon any terms and conditions as agreed upon by the parties.

(c) A State or Indian tribe may unilaterally terminate an agreement by giving a 120-day written notice of intent to terminate.

(d) The MMS may commence termination of an agreement by giving a 120-day written notice of intent to terminate. MMS shall provide the State or Indian tribe with the reasons for the proposed termination in writing if the termination is proposed because of alleged deficiencies by the State or Indian tribe in carrying out the provisions of the agreement. The State or Indian tribe will be given 60 days to respond to the notice of deficiencies and to provide a plan for correction of those deficiencies. No final action on termination shall be taken until any submission of the State or Indian tribe provided within the above prescribed 60 days has been reviewed by MMS for content or merit.

(e) Termination of a cooperative agreement shall not bar a later request by a State or Indian tribe to enter into a subsequent cooperative agreement.

§ 228.102 Establishment of standards.

The MMS, after consultation with States and Indian tribes, shall establish standards for carrying out the activities under the provisions of this part. The standards will be incor-

porated into the agreement and shall be no more stringent than those applicable to similar activities of the MMS. The States and Indian tribes shall coordinate their planned auditing activities with MMS. Where an MMS audit team is permanently assigned to a lessee/payor, contact by State and Indian tribal auditors with the lessee/payor shall be through the MMS auditor in residence.

§ 228.103 Maintenance of records.

(a) The State or Indian tribe entering into a cooperative agreement under this part must retain all records, reports, working papers, and any backup materials for a period specified by MMS. All records and support materials must be available for inspection and review by appropriate personnel of the Department including the Office of the Inspector General.

(b) The State or Indian tribe shall maintain all books and records as may be necessary to assure compliance with the provisions of chapter 1, 48 CFR 31.107 and 48 CFR subpart 31.6 (Contracts with State, local, and federally recognized Indian tribal Governments).

[56 FR 10512, Mar. 13, 1991]

§ 228.104 Availability of information.

(a) Under the provisions of this part, information necessary to carry out the activities authorized under the terms of a cooperative agreement will be provided by DOI to the States and Indian tribes entering into such agreements. The information will consist of data provided from all relevant sources on a lease level basis for leases located within the boundaries of the State or Indian tribe which has entered into the agreement. This information will include any records or data held by the lessee or other person that have not been submitted to MMS, but that affect Federal lease interests and could be required to be submitted under the lease terms or Federal regulations.

(b) None of the provisions of this subpart should be construed as limiting information already being provided to Indian tribes and allottees regarding their lease interests.